

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BOARD OF TRUSTEES OF THE AFTRA RETIREMENT FUND, in its capacity as a fiduciary of the AFTRA Retirement Fund, individually and on behalf of all others similarly situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

BOARD OF TRUSTEES OF THE IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM, in its capacity as a fiduciary of the Imperial County Employees' Retirement System, individually and on behalf of all others similarly situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

THE INVESTMENT COMMITTEE OF THE MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY PENSION PLAN, in its capacity as a fiduciary of the MaBSTOA Pension Plan, individually and on behalf of all others similarly situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

**DECLARATION OF PETER H. LEVAN, JR. IN SUPPORT OF  
PLAINTIFFS' RESPONSE TO THE *AMICUS CURIAE* BRIEF OF THE  
SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION**

PETER H. LEVAN, JR. declares under the penalty of perjury pursuant to 28 U.S.C. § 1476:

1. I am a partner with the law firm Barroway Topaz Kessler & Check, LLP, lead class counsel for plaintiffs in this action. I respectfully submit this declaration in support of plaintiffs' response to the *amicus curiae* brief of the Securities Industry and Financial Markets Association ("Amicus").

2. The purpose of this declaration is to submit and identify for the Court a true and correct copy of the deposition testimony referenced in plaintiffs' response to the Amicus that plaintiffs do not anticipate will be submitted in connection with their merits brief, to be filed on March 31, 2011.

3. Attached as Exhibit A is a true and correct copy of the excerpts of the deposition transcript of Charles Grice dated December 7, 2010.

Dated: March 18, 2011

/s/ Peter H. LeVan, Jr.

Peter H. LeVan, Jr.  
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